

REMARKS

Claims 1, 7, 8 and 14-17 stand rejected under § 102(e) as anticipated by Rhoads (5,850,481). A rejection under § 102(e) is believed improper, as the '481 patent is not an invention "by another," as required by § 102(e). However, the Examiner's rejection highlights the fact that the undersigned failed to claim priority to applicant's earlier applications in which the claimed subject matter was disclosed.

In particular, the subject matter cited from the '481 patent against claims 1, 7, 8 and 14-17 was first filed by the applicant at least as early as March, 1994.

All of the other claimed details were disclosed by applicant at least as early as November, 1996. (Indeed, the present specification is essentially identical to application 08/746,613, filed November 12, 1996 (now patent 6,122,403).

To redress this priority problem, applicant will allow this application to lapse into abandonment, and will file a new application in which the priority claim is corrected.

Date: January 19, 2005

CUSTOMER NUMBER 23735

Phone: 503-469-4800

FAX 503-469-4777

Respectfully submitted,

DIGIMARC CORPORATION

By 

William Y. Conwell
Registration No. 31,943